



Germany

Country Reports on Human Rights Practices - [2001](#)

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The Federal Republic of Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the first of two chambers of Parliament. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states represented in Parliament in the Bundesrat enjoy significant autonomy, particularly regarding law enforcement and the courts, education, the environment, and social assistance.

Law enforcement is primarily a responsibility of state governments, and the police are organized at the state level. The jurisdiction of the Federal Criminal Office is limited to counterterrorism, international organized crime, particularly narcotics trafficking, weapons smuggling, and currency counterfeiting. Police forces in general are well trained, disciplined, and mindful of citizens' rights; however, there have been instances in which police committed human rights abuses.

The population is approximately 82 million. A well-developed industrial economy provides citizens with a high standard of living. In 2000 the per capita gross national product was \$25,050.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with cases of individual abuse; however, there were a few problems. There were some limits on freedom of assembly and association. There was some discrimination against Scientologists, and one regional court has upheld a ban on the wearing of Muslim headscarves by teachers in public schools. Violence against women and children continued to be a problem, which the Government took steps to address. Some minority religious groups reported instances of societal discrimination. Instances of societal violence and harassment directed at minority groups and foreign residents continued. Women continued to face some wage discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports during the year of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The case of Aamir Ageeb, a Sudanese asylum seeker, who died in May 1999 during a deportation flight while in the custody of Federal Border Police remained pending before a Frankfurt state court at year's end (see Section 2.d.). In January 2000, the Federal Constitutional Court upheld the conviction of former East German Politburo member Egon Krenz, who had been sentenced to 6 1/2 years' imprisonment for his role in East Germany's shoot-to-kill policy at the East-West border before the fall of the Berlin Wall. In November 2000, the European Court for Human Rights heard his appeal, and on March 22, affirmed the finding of the German Constitutional Court that Krenz and other former East Germans were responsible for the killing of Germans who were trying to escape from East Germany. Krenz began serving his sentence on January 13.

On May 15, a court convicted Red Army Faction member Andrea Klump for her participation in a failed

bombing attack in 1988 on a Spanish disco and various other terrorist acts. The Court sentenced her to 9 years' imprisonment. On hearing the verdict, Klump stated that she would not appeal.

An appeal by Bernhard Falk, a member of a leftwing terrorist organization the Anti-Imperialist Cell, of a 1999 conviction and sentencing on four charges of attempted murder in connection with a series of bombing attacks in 1995, continued at year's end.

On November 13, the trial which began in 1997 of four individuals accused of the 1986 bombing of the Berlin La Belle discotheque that killed 3 persons and injured 230 others concluded. One of the defendants was convicted of murder, and the other three defendants were convicted as accessories to murder; they were sentenced to prison terms of 12 to 14 years each. A fifth suspect was acquitted for lack of evidence. At year's end, the prosecution was appealing the verdict to seek longer sentences.

In February a court convicted and sentenced Hans-Joachim Klein to 9 years' imprisonment for the killing of persons during a 1975 attack by leftwing terrorists on a meeting of the Organization of Petroleum Exporting Countries in Vienna, Austria. The court stated that Klein had cooperated by providing information that helped police in their fight against terrorism; however, the prosecution stated they would appeal the verdict as too lenient.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices; however, in March the U.N. Committee for the Elimination of Racial Discrimination expressed concern about "repeated reports of racist incidents in police stations as well as ill-treatment by law enforcement officials against foreigners". Amnesty International published a report in July 1999 that found that police treatment of foreigners in custody showed "a clear pattern of abuse." Amnesty International also reported a June 2000 incident of police brutality against a pregnant Togolese woman.

In September 2000, an Iranian family facing deportation claimed that police held the father's arms behind his back, pushed his head down and then held him on the ground in a manner that hindered his breathing. Police allegedly slapped two older children who tried to help. Border police claim that the father and an older child violently resisted deportation. Human rights and asylum-assistance organizations have called for an investigation. Following an internal investigation into this and other incidents, the border police acknowledged that some detainees had been mistreated. However, no officers were held responsible, and no further action is expected in this case.

The Government investigates abuses and prosecutes police who mistreat persons in custody. Amnesty International reported that during the year, the courts adjudicated two cases in which police officers were convicted for abuses against persons held in custody in previous years. On May 17, Munich's District Court upheld the conviction of a police officer for incidents that occurred during Oktoberfest in 1998; three other defendants were acquitted. In April the Rottweil District Court upheld the conviction of two other police officers for a 1999 incident where the police officers violently detained a wrongly identified man as he left his house during a police chase.

There were a number of violent rightwing attacks on minority groups and foreigners (see Section 5).

Prison conditions generally meet international standards. According to the newspaper, German News, on August 1 there was a hunger strike at Tegel prison (the largest prison for men in Europe) of more than 30 inmates to protest the prison conditions. The prisoners' primary complaint was the overcrowding of prison cells. Men are held separately from women, juveniles are held separately from adults, and pretrial detainees are held separately from convicted criminals.

The Government permits visits by independent human rights monitors, although there were no reports that such visits were requested during the year.

d. Arbitrary Arrest, Detention, or Exile

The Basic Law prohibits arbitrary arrest and detention, and the Government generally observes these prohibitions. A person can be arrested only on the basis of an arrest warrant issued by a competent judicial

authority, unless the person is caught in the act of committing a crime, or the police have strong reason to believe that the person intends to commit a crime. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. Any person detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the person's release.

Police at times detained known or suspected rightwing and leftwing radicals for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations (see Section 2.b.). For example, in August 2000, police in Thuringia took into temporary custody 53 persons who were suspected of heading for illegal rallies to mark the 13th anniversary of the death of Rudolf Hess (see Section 5). The rules governing this type of detention are different in each state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial apprehension. There were no reports of such detention during the year.

Detainees have access to lawyers. Only judges may decide on the validity of any deprivation of liberty. Bail exists but seldom is employed; the usual practice is to release detainees unless there is clear danger of flight outside the country. In these cases, a person may be detained for the course of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual.

The Basic Law prohibits forced exile, and the Government does not employ it.

e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary, and the Government generally respects this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are four levels of such courts (local courts, regional courts, higher regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also have different levels, and appeals may be made to the next higher level.

Separate from these five types of courts is the Federal Constitutional Court, which is the supreme court. Among other responsibilities, it reviews laws to ensure their compatibility with the Constitution and adjudicates disputes between different branches of government on questions of competencies. It also has jurisdiction to hear and decide claims based on the infringement of a person's basic constitutional rights by a public authority.

The judiciary provides citizens with a fair and efficient judicial process, although court proceedings are at times delayed because of increasing caseloads. For simple or less serious cases, the Government has adopted a procedure allowing for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to 1 year, and if a sentence of 6 months or more is expected, a defense counsel must be present.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Basic Law prohibits such actions, and government authorities generally respect these prohibitions; violations are subject to effective legal sanction. For example, one regional court has upheld a ban on the wearing of headscarves by Muslim teachers in public schools (see Section 2.c).

Several hundred organizations were under observation by the federal and state Offices for the Protection of the Constitution (OPC). The OPC are charged with examining possible threats to the democratic system; they have no law enforcement powers, and OPC monitoring by law may not interfere with the continued activities of any organization. In observing an organization, OPC officials seek to collect information, mostly from written materials and first-hand accounts, to assess whether a threat exists. At times more intrusive methods, such as the use of undercover agents, are used, but they are subject to legal checks.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Basic Law provides for freedom of the press, and the Government generally respects this right in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of the press and of speech; however, there were some limits on freedom of speech. The distribution of the propaganda of proscribed organizations or to statements endorsing Nazism or denying the Holocaust, is illegal, and the authorities seek to block what they consider dangerous material on the Internet.

There are more than 800 radio stations and nearly 400 television stations in the country. In addition there are hundreds of daily and weekly newspapers and periodicals. Foreign broadcasts and publications are available readily, particularly in the major cities. The media is independent; a wide range of political and other opinions are expressed freely.

There are approximately 120 Internet service providers. The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and the Government has explored ways to expand cooperation in countering Internet crime. In June 1999, the Justice Ministry cosponsored a major symposium on combating the spread of hate materials on the Internet, and it proposed voluntary measures for Internet service providers and companies doing online business, as well as improved international law enforcement cooperation that have reportedly had a positive effect. In February 2000, the Federal Criminal Office hosted a similar event, bringing service providers and domestic law enforcement officials together to discuss ways to enhance cooperation. German officials estimated that there are approximately 800 Internet sites with what they consider objectionable or dangerous rightwing extremist content. The Federal Court of Justice has held that the country's laws against Nazi incitement may apply to individuals who post Nazi material on Internet sites available to users in the country, even if the site resides on a foreign server.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government generally respects this right in practice; however, outlawed organizations are not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies. For example, rallies and marches by neo-Nazis and rightwing radicals commemorating the death of Nazi official Rudolf Hess are banned routinely.

The law provides for freedom of association, and the Government generally respects this right in practice; however, the Basic Law permits the banning of organizations whose activities are found to be illegal or opposed to the liberal democratic order as established by the Basic Law. The Federal Constitutional Court is the only body that can outlaw political parties on these grounds; under this provision, the Court in the 1950's banned a neo-Nazi and a Communist party. Federal or state governments may ban other organizations on these grounds, but legal recourse against such decisions is available. Such banned organizations include a number of groups that authorities generally classify as rightwing or leftwing, foreign extremist, or criminal in nature. Several hundred organizations were under observation by the Federal and state OPC (see Section 1.f.).

In August 2000, the Government established a commission of experts to examine whether evidence against the rightwing extremist National Democratic Party (NPD) would meet the threshold to support a legal ban, which was demanded widely after a surge of rightwing extremist activity. Based on the commission's recommendations, in November 2000, the Government agreed to petition the Federal Constitutional Court to ban the NPD. The Bundestag and Bundesrat supported this decision and have filed separate petitions for the banning of the NPD with the Court. A decision was pending before the Federal Constitutional Court at year's end.

In September 2000, the Federal Interior Minister banned the rightwing extremist skinhead organization "Blood and Honor" and its youth organization, "White Youth," citing as justification the groups' rejection of the constitutional order. These bans (the first issued by the Federal Government since 1995) allow the Government to seize the groups' assets; however, members are free to reconstitute themselves under a new name. In December the Federal Interior Minister banned the extremist Islamic organization, State of the Caliphate, on the grounds that the organization "actively worked to undermine the country's constitutional order." The ban was made following a change in the law in December that removed a previous exception for religious organizations.

c. Freedom of Religion

The Basic Law provides for the freedom of religion, and the Government generally respects this right in

practice; however, there is some discrimination against minority religions.

Religious organizations are not required to register; however, most are registered and are treated like nonprofit associations and therefore enjoy tax-exempt status.

Church and state are separate, although historically a special relationship exists between the State and those religious communities that have the status of a "corporation under public law." Religions enjoying this status may request that the Government collect church membership taxes on their behalf for an administrative fee; however, not all religious groups take advantage of this privilege. State governments subsidize various institutions affiliated with public law corporations, such as church-run schools and hospitals. State subsidies also are provided to some religious organizations for historical and cultural reasons. Many religions and denominations have been granted public law corporation status; among them are the Lutheran and Catholic Churches, Judaism, the Church of Jesus Christ of Latter-Day Saints, Seventh-Day Adventists, Mennonites, Baptists, Methodists, Christian Scientists, and the Salvation Army. Applications from several Islamic groups are pending in various states.

In 1993 Jehovah's Witnesses appealed to the Constitutional Court a 1993 decision of the Berlin State Government that had denied the church public law status. In 1997 the Federal Administrative Court in Berlin upheld the Berlin State Government's decision. The court concluded that the group did not offer the "indispensable loyalty" toward the democratic state "essential for lasting cooperation," because it forbids its members from participating in public elections. The group does enjoy the basic tax-exempt status afforded to most religious organizations. In December 2000, the Constitutional Court found in favor of Jehovah's Witnesses, remanding the case back to the Federal Administrative Court in Berlin. The Constitutional Court, upon examining the conditions for granting a religious group the status of a public law corporation, found that because the Basic Law requires the separation of church and state, "loyalty to the state" could not be a condition imposed on religious communities. The Constitutional Court tempered the victory for Jehovah's Witnesses by instructing the Federal Administrative Court to examine whether Jehovah's Witnesses use coercive methods to prevent their members from leaving their congregations and whether their child-rearing practices conform to German human rights standards. In May the Federal Administrative Court referred the case back down to the Higher Administrative Court in Berlin to address the open questions.

Several states, noting their responsibility to respond to citizens' requests for information about these groups, have published pamphlets detailing the ideology and practices of nonmainstream religions. While many of the pamphlets are factual and relatively unbiased, others may harm the reputations of some groups through innuendo and inclusion in a report covering known dangerous cults or movements. Scientology is the focus of many such pamphlets, some of which warn of the alleged dangers posed by Scientology to the political order and freemarket economic system and to the mental and financial well being of individuals. For example, the Hamburg OPC published "The Intelligence Service of the Scientology Organization," which claims that Scientology tried to infiltrate governments, offices, and companies, and that the church spies on its opponents, defames them, and "destroys" them.

In April the federal OPC concluded in its annual report for the year 2000 that its stated reasons for initiating observation of Scientology in 1997 remained valid. The section of the report covering Scientology described the organization's political ideology as antidemocratic, quoting from the writings of Scientology founder L. Ron Hubbard and Scientology pamphlets.

The Church of Scientology, which operates 18 churches and missions remained under scrutiny by both federal and state officials, who contend that its ideology is opposed to democracy. Since 1997 Scientology has been under observation by the Federal and State OPC's (see Section 1.f.). One state, Schleswig-Holstein, does not implement observation; state officials have concluded that Scientology does not have an actively aggressive attitude towards the Constitution--the condition required by the state's law to permit the OPC observation. On December 12, the Berlin Regional Administrative Court held that the Berlin OPC could not employ undercover agents to continue the observation of Scientology's activities in the state of Berlin. The Court concluded that after 4 years of observation, the Berlin OPC had failed to uncover information that would justify the continued use of intrusive methods. Observation is not an investigation into criminal wrongdoing, and, to date, no criminal charges have been brought against the Church of Scientology by the Government.

Government authorities contend that Scientology is not a religion but an economic enterprise and therefore at times have sought to deregister Scientology organizations previously registered as nonprofit associations and require them to register as commercial enterprises. With the exception of the Church of Scientology in Baden-Wuerttemberg, no Scientology organization in the country has tax-exempt status.

Scientologists continued to report discrimination because of their beliefs. A number of state and local offices share information on individuals known to be Scientologists. Until March the Government required firms to

sign a declaration (a "sect filter") in bidding on government contracts stating that neither the firm's management nor employees were Scientologists. The term sect filter is misleading because the declarations are Scientology specific and in practice do not refer to any other group; they could more accurately be described as "Scientology filters." Firms that failed to submit a sect filter declaration were presumed "unreliable" and excluded from consideration. In response to concerns expressed by foreign governments and multinational firms, in 2000 the Economics Ministry limited the scope of the sect filter to consulting and training contracts. In March the Economics Ministry persuaded the federal and state interior ministries to accept new wording that would only prohibit use of the "technology of L. Ron Hubbard" in executing government contracts. Firms owned or managed by or employing Scientologists could bid on these contracts. The private sector on occasion has required foreign firms that wish to do business in the country to declare any affiliation that they or their employees may have with Scientology. Private sector firms that screen for Scientology affiliations frequently cited OPC observation of Scientology as a justification for discrimination (see Section 5). The Federal Property Office has barred the sale of some real estate to Scientologists, noting that the federal Finance Ministry has urged that such sales be avoided, if possible.

Scientologists reported employment difficulties, and, in the state of Bavaria, applicants for state civil service positions must complete questionnaires detailing any relationship they may have with Scientology. Bavaria identified some state employees as Scientologists and has required them to complete the questionnaire. The questionnaire specifically states that the failure to complete the form will result in the employment application not being considered. Some of these employees have refused, and two filed suit in the local administrative court. Both cases have been decided, both in favor of the employees. Others refused to complete the questionnaire, but chose to await rulings in the two mentioned cases. The Bavarian Interior Ministry commented that these were individual decisions, but withdrew the questionnaire for persons already employed with the State of Bavaria or the City of Munich; however, the questionnaire is still in use for persons seeking new state or municipal government employment. In one case, a person was not given civil service but only employee status (a distinction which involves important differences in levels of benefits); in another case, a person quit Scientology in order not to jeopardize his career. According to Bavarian and federal officials, no one in Bavaria lost a job or was denied employment solely because of association with Scientology; Scientology officials confirmed this fact.

In a well-publicized court case in January 1999, a higher social court in Rheinland-Pfalz ruled that a Scientologist was allowed to run her au pair agency, for which the State Labor Ministry had refused to renew her license in 1994 because of her membership in the Church of Scientology. The judge ruled that the question of a person's reliability hinges on the person and not their membership in the Church of Scientology. The ruling remained under appeal by the State Labor Office at year's end, and the au pair agency continued operations.

There remained areas in which the law conflicts with Islamic practices or raises religious freedom issues. In November 1999, the Government published a comprehensive report on "Islam in Germany" which examined these issues in response to an inquiry from the Bundestag.

On June 26, an administrative court upheld a 1998 ban in the southern state of Baden-Wuerttemberg on Muslim teachers wearing headscarves in the classroom. An appeal before the Federal Administrative Court was pending at year's end. However, in October 2000, the Administrative Court in Lueneburg, Lower Saxony, ruled in favor of a Muslim teacher who had been refused permanent employment for wearing a headscarf in the classroom. The Court found that wearing a headscarf did not constitute cause for denial of employment and instructed the authorities to admit the teacher into probationary civil service status. Members of Christian religious orders similarly are not allowed to wear their habits while teaching at public schools, although habits are permitted in denominational schools. Muslim students are free to wear headscarves.

The right of Muslims to ritually slaughter animals has been the subject of two court cases. In November 2000, the Federal Administrative Court ruled that the Islamic Community of Hesse was not a religious community as provided for in the animal protection laws and could not, therefore, receive a waiver to laws requiring an animal to be stunned before slaughter. The Court did not rule on whether Islam prescribes the exclusive consumption of ritually-slaughtered meat, noting that such decisions were beyond the scope of the courts. A similar case was heard by the Federal Constitutional Court, although the Court had not issued a decision by year's end.

Most public schools offer religious instruction in cooperation with the Protestant and Catholic churches and will offer instruction in Judaism if enough students express interest. A nonreligious ethics course or study hall usually is available for students not wishing to participate in religious instruction. The issue of Islamic education in public schools continued to be controversial. In February 2000, the Federal Administrative Court upheld previous court rulings that the Islamic Federation qualified as a religious community and thus must be given the opportunity to provide religious instruction in Berlin schools. The decision drew criticism from the many Islamic organizations not represented by the Islamic Federation. In August after it had rejected proposed syllabi on four occasions, the Berlin State Government directed the Berlin Department of Education

to offer Islamic classes at two Berlin primary schools. However, the Berlin State Government was unable to secure the acceptance of the syllabi by all Muslim associations.

In November 2000, the Rheinland-Pfalz Superior Court (OVG) ruled that the German Unification Church (Moon Community) was permitted to contest an immigration order prohibiting its leader's entrance into the country. The court also left open an appeal by either the immigration authorities or the Unification Church to the Federal Administrative Court in Berlin because of the significance of the matter.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Basic Law provides for these rights, and the Government generally respects them in practice. For ethnic Germans from Eastern Europe and the former Soviet Union, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions. As of January 2000, a new law entered into effect that grants citizenship to children born to legal foreign residents. Individuals may retain both German citizenship and that of their parents until the age of 23, when they must choose one or the other. The law also decreased the period of residence legal foreign residents must spend in the country in order to earn the right to naturalize from 15 to 8 years.

The Basic Law and subsequent legislation provide for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Both the Federal Government and state governments cooperate with the office of U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, although immigration matters are primarily a state-level responsibility.

Individuals attempting to enter via a "safe third country" (any country in the European Union (EU) or adhering to the Geneva Convention on Refugees) are ineligible for asylum and can be turned back at the border or returned to that "safe third country" if they manage to enter the country. Persons coming directly from any country which officials designate as a "safe country of origin" cannot claim asylum in Germany, and individuals whose applications are rejected on these grounds have up to 2 weeks to appeal the decision. Individuals who arrive at an international airport and who are deemed to have come from a "safe country of origin" can be detained at an airport holding facility. In these cases, the Federal Office for the Recognition of Foreign Refugees must make a decision on an asylum application within 48 hours or allow the person to enter the country. The person may appeal a negative decision to an administrative court within 3 days, and the court must rule within 14 days or allow the individual to enter the country. Although stays in the airport facility thus are, in theory, limited to a maximum of 19 days, applicants whose claims were rejected, but who could not be deported immediately have been held at the airport for months, a practice criticized by some refugee assistance groups and human rights advocates (see Section 1.c.).

Applicants who enter the country and are denied asylum at their original administrative hearing may challenge the decision in court, and 80 percent of applicants denied asylum do so. Approximately 3 to 4 percent of such rejections are overturned. The rejected applicant is allowed to remain in country during the course of the appeal, which usually takes at least a year and sometimes significantly longer. In October 2000, the Government announced changes to the regulations governing asylum seekers and employment. Since December 2000, applicants for asylum and civil war refugees have been allowed to work after a 1-year waiting period. The Government estimated that approximately 75,000 foreigners would be entitled to work under the new rules. Individuals who fail to cooperate during the deportation process or who are deemed liable to flee to avoid deportation can be held in predeportation detention, with the average detention period lasting 5 to 6 weeks.

Some foreigners whose asylum applications were rejected, but who would be endangered if they were returned to their home country, such as those fleeing civil wars, receive temporary residence permits; however, they are expected to leave when conditions in their home country allow for their safe return. The vast majority of the approximately 345,000 Bosnians and the approximately 200,000 Kosovars whom the Government admitted during the conflict in the former Yugoslavia fall into this category; most of these persons have since been repatriated or resettled outside of the country. For the remaining Bosnians and Kosovars, once their residence permits expire, they may be deported, although some exceptions were made for certain vulnerable groups, such as members of ethnic minorities, including Serbs, Roma, Ashkalia, and Muslim Slavs. In a number of cases, there also were exceptions made for medical reasons. The Government continued to support voluntary return programs for refugees from the former Yugoslavia, providing financial incentives of between \$765 and \$2,250 (DM 1,350 to DM 4,500) to help cover travel and resettlement costs; many states provided additional resettlement funds. However, failure to accept voluntary repatriation subjects these refugees to the threat of deportation, forces them to leave their personal property behind, and excludes them from reentering the country for a 5-year period.

The right of most Kosovar refugees to stay in the country expired in spring 2000 and most states began regular

deportations in March 2000. By the end of 2000, 6,800 Kosovar refugees had been deported, among them approximately 1,300 ex-offenders. During the year, approximately 4,500 Kosovar refugees were deported and approximately 8,200 returned home on a voluntary basis. Some national officials, the UNHCR, and domestic refugee support organizations have cautioned that the refugees' place of origin and ethnicity should be given careful consideration in the implementation of Kosovar returns.

State authorities, working in close cooperation with the International Organization for Migration (IOM), the UNHCR, and other domestic nongovernmental organizations (NGO's), continued to repatriate Bosnian refugees, unless they qualified for an extension of stay on certain humanitarian grounds. In November 2000, the Federal and State Interior Ministers decided at their annual meeting to grant severely traumatized Bosnians and their family members, including unmarried adult children, temporary residence permits for the duration of their medical treatment. In addition the Government will permit some older Bosnian refugees, as well as some categories of Kosovars (such as orphaned children, ethnically mixed couples from areas with no minority protection, and war crimes tribunal witnesses) to stay in the country.

Refugee assistance organizations have expressed concern regarding courts' interpretations of certain provisions related to the right of asylum, notably the practice of excluding "quasi-governmental" persecution as a basis for granting asylum. In August 2000, the Federal Constitutional Court ruled that lower courts had erred in denying asylum to three Afghan applicants because their persecutors were not a state government but members of a Mujahadeen group--a quasi-governmental entity. The case was remanded back to the lower court with instructions to reconsider the issue of quasi-governmental persecution, and a decision was pending at year's end. In response to the Constitutional Court ruling, the Federal Office for the Recognition of Foreign Refugees has postponed making decisions in all pending asylum cases involving quasi-governmental persecution until the lower court reissues its ruling.

An investigation into the 1999 death of a Sudanese asylum seeker who died during a deportation flight while in the custody of the Federal Border Police remained pending at year's end (see Section 1.a). The Border Police allegedly physically subdued the man during takeoff because he was resisting violently (see Section 2.d.). As a result of this incident, the Federal Interior Ministry has instituted new deportation procedures that prohibit methods that could hinder breathing.

In June 2000, the Federal Government appointed a commission of experts to examine every aspect of immigration and to propose administrative or legislative changes if deemed necessary. In July the Commission submitted its report, and in November the Government introduced an immigration bill to Parliament; the legislation was pending before Parliament at year's end.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Basic Law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections. Members of Parliament's first chamber, the Bundestag, are elected every 4 years from a mixture of direct-constituency and party-list candidates on the basis of universal suffrage and secret balloting. The second chamber, the Bundesrat, is composed of delegations from state governments; there are no collective Bundesrat elections.

In the Bundestag, there are two major political parties, the Social Democrats (SPD) and the Christian Democratic Union/Christian Social Union (CDU/CSU), as well as three smaller parties, the Free Democrats (FDP), the Greens, and the Party of Democratic Socialism (PDS). A political party must receive at least 5 percent of the popular vote nationwide or win 3 constituencies outright to be represented in the Bundestag. The federal Constitutional Court may outlaw political parties that actively work to undermine the liberal democratic order (see Section 2.b.).

The percentage of women in government and politics does not correspond to their percentage of the population, although the law entitles them to participate fully in political life, and a growing number are prominent in the Government and the parties. Slightly under 31 percent of the members of the Bundestag are female. Women occupy 7 of 15 Federal Cabinet positions. On the Federal Constitutional Court, 5 of the 16 judges are female, including the Chief Justice. Three of the parties represented in the Bundestag are headed by women: The Christian Democratic Union, the Greens/Alliance 90 (co-chaired by a woman and a man), and the Party of Democratic Socialism. All of the parties have undertaken to enlist more women. The Greens/Alliance 90 Party requires that women constitute half of the party's elected officials; and 57.5 percent of the Party's federal parliamentary caucus members are women. The Social Democrats have a 40-percent quota for women on all party committees and governing bodies, and they have met that goal. The Christian Democrats require that 30 percent of the first ballot candidates for party positions be women, a goal which they have met.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of international and domestic human rights groups in general operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

In December 2000, the Bundestag voted to create the National Institute for Human Rights, an autonomous foundation whose function will be to monitor human rights both domestically and abroad and to promote education and scientific research in the field.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits the denial of access to housing, health care, or education on the basis of race, religion, disability, sex, ethnic background, political opinion, or citizenship.

Women

Violence against women was a problem and was underreported. According to Government statistics published during the year, in 2000 there were 7,499 cases of rape reported. The law prohibits violence against women and the Government has implemented a vast array of legal and social structures to combat it. Societal attitudes toward such violence are strongly negative, and legal and medical recourse are available. During the year, the Government conducted campaigns in schools and through church groups to bring public attention to the existence of such violence and the Government has supported numerous pilot projects to combat such violence throughout the country. For example, there are 435 "women's houses", including 115 in the eastern states (excluding Berlin), where victims of violence and their children can seek shelter, counseling, and legal and police protection. In the last few years, the Federal Ministry for Women and Youth has commissioned a number of studies to obtain information on violence against women, sexual harassment, and other matters.

Trafficking in women and is illegal; however, trafficking in women was a serious problem (see Section 6.f.).

There were no reports that women were victims of sexual harassment.

The Government continued to implement its multiyear action plan, "Women and Occupation," adopted in 1999. The program promotes the equality of women and men in the workforce, including increased vocational training for women, greater representation of women in political advisory councils, and the promotion of female entrepreneurs through government grants and participation in regional projects earmarked for women. The Federal Ministry for Families, the Elderly, Women, and Youth also announced a multiyear initiative designed to increase the number of women and girls who receive training in information technology (IT) and in media careers, with the goal of raising the number of IT-training slots to 60,000 by 2003 and the share of female IT-trainees to 40 percent by 2005. The law provides for equal pay for equal work; however, in practice many employers categorize individual jobs held by women differently from the same job held by a man, thereby creating inequalities in pay for men and women. Union contracts typically identify categories of employment in which participants are to be paid less than 100 percent of the wage of a skilled laborer covered by the same contract. Women are represented disproportionately in these lower-wage scale occupations. In general a woman's average monthly income is lower than a man's average monthly income. However, if factors such as differences in age, qualification, occupational position, structure of employment or seniority are taken into consideration, women usually are not discriminated against in terms of equal pay for equal work, although they are underrepresented in well paid managerial positions.

In January 2000, the European Court of Justice ruled that the Government's prohibition on women in combat roles in the armed forces violated EU directives against discrimination based on gender. The Government accepted the ruling and in December 2000 completed the process of amending the Constitution to open all military jobs to women on a voluntary basis. The first group of 244 women reported for duty on January 2.

Children

The Government is strongly committed to children's rights and welfare; it amply funds systems of public education and medical care. Public education is provided free of charge through the university level, and is mandatory through the age of 16; almost all children attend school on a daily basis.

The Government has recognized that violence against children is a problem. Police figures recorded 15,279

cases of sexual abuse of children in 2000, a 1.9 percent increase from 15,279 in 1999. Officials believe that the number of unreported cases may be much higher. The law stresses the need for preventive measures, and in response the Government has increased its counseling and other assistance to abused children.

The Criminal Code provides for the protection of children against pornography and sexual abuse. For possession of child pornography, the maximum sentence is 1 year's imprisonment; the sentence for distribution is 5 years. The law makes the sexual abuse of children by German citizens abroad punishable even if the action is not illegal in the child's own country.

Trafficking in girls was a serious problem (See Section 6.f.).

Persons with Disabilities

The Basic Law specifically prohibits discrimination against persons with disabilities, and there were no reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law mandates several special services for persons with disabilities; they are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offers vocational training and grants for employers who hire the disabled. Persons with severe disabilities may be granted special benefits, such as tax relief, free public transport, special parking facilities, and exemption from radio and television fees.

The Government has set guidelines for the attainment of "barrier-free" public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states have incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings follow the guidelines for a "barrier-free environment." There were no reports of societal discrimination against persons with disabilities.

Religious Minorities

Scientists continued to report instances of societal discrimination (see Section 2.c.). In October the management of a commercial racing track in Oschersleben informed the foreign subsidiary of the California Superbike School--a private firm--that it could not rent the track to conduct a training session; they stated that the denial was based on the grounds that the founder of the School was a Scientist, and that Scientology was under OPC observation.

With an estimated 3 million adherents, Islam is the third most commonly practiced religion in the country (after Catholicism and Lutheranism). All branches of Islam are represented in the country, with the vast majority of Muslims coming from a large number of other countries. This has, at times, led to societal discord, such as local resistance to the construction of mosques or disagreements over whether Muslims can use loudspeakers in residential neighborhoods to call the faithful to prayer.

Opposition to the construction of mosques was reported in various communities during the year. In August 2000, a protest movement in the Stuttgart suburb of Heslach tried to prevent the construction of a mosque, claiming that the planned building did not fit into the community. The city offered the Islamic organization an alternative location, which the group declined. Subsequently the city denied a construction permit. The dispute remained unresolved at year's end.

A planned mosque in the Frankfurt suburb of Roedelheim has caused some controversy. Neighbors have expressed concerns about an increase in traffic if visitors come to attend services at the mosque. Newspapers reported that open opposition to the project was voiced at citizen meetings with the city administration. Leading city officials appeared to support the construction of the mosque, but the case remained pending at year's end.

The 2000 report of the Federal OPC does not distinguish violent crimes by the religious affiliation of the victims. Specific mention is made only of the desecration of Jewish graves or cemeteries. The report lists 56 such cases in 2000.

In October 2000, Molotov cocktails thrown at the synagogue in Düsseldorf caused slight damage to the building. On October 11, two young men of Arab origin were convicted of aggravated arson in association with the attack. Police found Nazi symbols and related items in the suspects' homes. The synagogue, as well as all other synagogues and Jewish community buildings, remained under police protection around the clock since the incident.

National/Racial/Ethnic Minorities

Unlike in the previous year, there were no reports of deaths resulting from violence by rightwing extremists against marginalized social groups. OPC statistics for 2000 indicated a 49 percent increase in the overall number of proven or suspected rightwing crimes committed in 2000 as compared with 1999 (10,037 in 1999 to 14,951 in 2000). The number of violent rightwing crimes (including killings, attempted killings, and attacks that result in bodily injury, arson, and bombings) rose more than 30 percent, from 746 in 1999 to 998 during 2000.

The OPC reported that 50,900 persons were active in rightwing circles in 2000; including 36,500 members of rightwing political parties, 2,200 neo-Nazis, 4,200 members of other rightwing groups, and approximately 9,700 violence-prone individuals. Perpetrators of rightwing extremist violence were predominantly young, male, and of low socioeconomic status; they often committed such acts spontaneously and while inebriated. Most of the violent individuals (85 percent of whom are skinheads) could best be described as rightwing-oriented, having loose, if any, practical or ideological ties to organized extremist groups. The percentage of crimes with proven or suspected rightwing background was disproportionately high in the east; the OPC reported that more than half of rightwing skinheads live in the east, an area with only 21 percent of the country's population. In addition to these rightwing extremists, the OPC estimated that there were approximately 7,000 violence-prone leftwing extremists, whose primary targets were their rightwing counterparts.

In June 2000, three rightwing extremists beat to death Alberto Adriano, a Mozambican immigrant, as he walked home through a park at night in Dessau, Saxony-Anhalt. Authorities convicted three perpetrators; a 24-year-old defendant was sentenced to life in prison, and two 16-year-old accomplices were sentenced to 9 years in a youth facility. The 24-year-old and one of the juveniles have appealed their sentences, and the case continued at year's end.

In July 2000, three Kosovar Albanian children were injured when a firebomb was thrown through the window of the shelter for asylum seekers where they were staying in Ludwigshafen, Rhineland-Palatinate. Police arrested four skinheads 4 days later, and they were charged with the crime; the case was pending at year's end.

The trial of 11 rightwing extremists charged with the February 1999 death of Algerian asylum seeker Farid Guendoul in Brandenburg ended in November 2000 with the convictions of 8 defendants on charges of negligent homicide and of all 11 for lesser charges. Of the 11 persons convicted, 10 have appealed their convictions, while Guendoul's family has appealed the sentences which they consider to be too lenient: 3 youths were sentenced to 2 to 3 year terms in a youth facility while the others received suspended sentences or warnings; the appeals were ongoing at year's end. Since its dedication, a memorial to Guendoul has been desecrated a number of times by suspected rightwing extremists.

The Federal Government and state governments remained firmly committed to combating and preventing rightwing violence. In August and in November 2000, Federal and State Interior Ministers agreed on a slate of measures to combat extremist violence, which includes increased physical protection of Jewish and other potential targets, the creation of a national register of violent rightwing extremists, increased patrolling or video monitoring by the border police in transit stations, and the prosecution of illegal rightwing content on the Internet (see Section 2.a.). The Federal Border Police also established a hot line for concerned citizens to report rightwing crimes. The Government announced that it would use \$34 million (DM 75,000,000) from the EU Social Fund for antirightwing initiatives, to be cofinanced by the states or communities wishing to apply for project funds. In addition a number of state and local governments continued programs to crack down on rightwing extremist activities and to engage young persons considered most "at risk" for rightwing behavior.

Isolated attacks targeting Turkish establishments and individuals continued during the year. Although some attacks were linked to rightwing perpetrators, many were attributed to intra-Turkish political or private disputes. In August 2000, a 43-year-old Kurd was arrested and indicted for his alleged actions as a Kurdistan Workers' Party (PKK) functionary, including his order for Kurdish demonstrators to occupy foreign embassies and consulates in Germany after the 1999 arrest and return to Turkey of PKK leader Abdullah Ocalan; his case was ongoing at year's end.

The Government protects and fosters the languages and cultures of national and ethnic minorities that traditionally have lived in the country (for example, Sorbs, Danes, Roma, Sinti, and Frisians). Although the Government has recognized the Sinti and Roma as an official "national minority" since 1995, the Federal and state interior ministries have resisted including Romani among the languages to be protected under relevant European statutes. Critics contend that the Sinti/Romani minority is the only official national minority that does not have unique legal protection, political privilege, or reserved representation in certain public institutions.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related

discrimination. Unemployment affects foreigners disproportionately, although at times this was due in part to inadequate language skills or nontransferable professional qualifications of the job seekers (see Section 6.e.). The Federal Government and all states have established permanent commissions to assist foreigners in their dealings with government and society.

Section 6 Worker Rights

a. The Right of Association

The Basic Law provides for the right to associate freely, choose representatives, determine programs and policies to represent workers' interests, and publicize views, and workers exercised these rights. Approximately 28.5 percent of the total eligible work force belong to unions. The German Trade Union Federation (DGB) represents approximately 85 percent of organized workers.

The Basic Law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive positions, such as members of the armed forces. In the past, the International Labor Organization (ILO) has criticized the Government's definition of "essential services" as overly broad. The ILO continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants.

The DGB participates in various international and European trade union organizations, including the European Trade Union Confederation (ETUC) and the International Confederation of Foreign Trade Unions (ICFTU).

b. The Right to Organize and Bargain Collectively

The Basic Law provides for the right to organize and bargain collectively and workers exercised these rights. Collective bargaining is widespread due to a well-developed system of autonomous contract negotiations, mediation is used infrequently. Basic wages and working conditions are negotiated at the industry level. However, some firms in the eastern part of the country have refused to join employer associations or have withdrawn from them and then bargained independently with workers. In addition some firms in the west withdrew at least part of their work force from the jurisdiction of employer associations, complaining of rigidities in the industrywide, multicompany negotiating system; however, they have not refused to bargain as individual enterprises. The law mandates a system, known as co-determination, whereby workers are able to participate in the management of the enterprises in which they work through "works councils" and worker membership on boards of directions.

The law effectively protects workers against antiunion discrimination. Labor courts are courts of first instance; therefore, complainants file their cases directly with the labor courts. Specialized labor court judges render decisions in these cases.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Basic Law prohibits forced or compulsory labor; however, trafficking in women was a problem (see Section 6.f.).

In July 2000, agreement was reached among eight nations, German companies, and victims' representatives on the establishment of a German foundation which will distribute funds for payments to private and public sector Nazi era forced and slave laborers and others who suffered at the hands of German companies during the Nazi era. The Government and German companies will each contribute \$2.3 billion (DM 5 billion) to the foundation, which is established under German law. The foundation concluded agreements with partner organizations that are to receive foundation funds in order to process and pay claims according to agreed procedures and subject to audit. Payments to former forced laborers began in July. Since July the Government has paid approximately \$1 billion (DM2 billion) to approximately 600,000 claimants worldwide.

The Basic Law prohibits forced or bonded labor in children; however, trafficking in girls was a problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years

of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. The Federal Labor Ministry effectively enforces the law through its Factory Inspection Bureau.

On July 5, the Bundestag ratified ILO 182 on the Worst Forms of Child Labor; the law took effect on December 18.

The Basic Law prohibits forced or bonded labor in children; however, trafficking in girls was a problem (see Section 6.f.).

e. Acceptable Conditions of Work

There is no legislated or administratively determined minimum wage; wages and salaries are set either by collective bargaining agreements between unions and employer federations or by individual contracts. Covering approximately 90 percent of all wage and salary-earners, the collective bargaining agreements set minimum pay rates and are enforceable by law. These minimums provide a decent standard of living for a worker and family.

In September 2000, the Federal Constitutional Court refused to review a case filed by a civil servant in East Berlin, who had argued unsuccessfully that the prevailing system of different rates of pay for public service workers in the east and west were unconstitutional. The Court ruled that lower wages in the east were justifiable due to differences in the economic situation in both parts of the country and stated that the pay gap had narrowed steadily since 1992.

Federal regulations limit the workweek to a maximum of 48 hours, but the number of hours of work per week is regulated by contracts that directly or indirectly affect 80 percent of the working population. The average workweek for industrial workers is 36 hours in the western part of the country and approximately 39 hours in the eastern states; rest periods for lunch are accepted practices. Provisions for overtime, holiday, and weekend pay vary depending upon the applicable collective bargaining agreement.

There is an extensive set of laws and regulations on occupational safety and health. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. The Labor Ministry and its counterparts in the states effectively enforce occupational safety and health standards through a network of government bodies, including the Federal Institute for Work Safety. At the local level, professional and trade associations--self-governing public corporations with delegates both from the employers and from the unions--oversee worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers legally in the country are protected by law and generally work in conditions equal to that of citizens; however, wage discrimination affects legal foreign workers to some extent. For example, foreign teachers in some schools are paid less than their German counterparts. In addition seasonal workers from Eastern Europe who come to the country on temporary work permits often receive wages below normal German standards. Furthermore workers from other EU countries at times are employed at the same wages that they would receive in their home country, even if the corresponding German worker would receive a higher wage. Foreigners who are employed illegally, particularly in the construction industry in Berlin, are likely to receive substandard wages.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons, primarily women and girls for sexual exploitation, was a serious problem.

Germany is a destination and transit country for trafficking in persons, overwhelmingly women and girls. Most trafficking victims are women and girls between the ages of 16 and 25 who are forced to work as prostitutes; according to police statistics, less than 0.5 percent of trafficking victims are men or boys. Estimates vary considerably on the number of women and girls trafficked to and through the country; they range from 2,000 to 20,000 per year. Approximately 80 percent of trafficking victims come from Eastern Europe and the countries of the former Soviet Union, primarily from Poland, Ukraine, Russia, Lithuania, Slovakia, Latvia, and the Czech Republic. Frequently crime rings will traffic women who have already been caught in, and deported from, one European country to another European country. The other 20 percent of trafficking victims come from Southeast Asia, Africa, and Latin America.

Traffickers use fake employment offers, arranged marriages, fraud, and coercive measures to find victims and use various methods to insure their compliance including threats of "selling" the victim to other traffickers, threats against family members in the country of origin, physical violence, and the withholding of documents.

The law specifically prohibits trafficking in persons and trafficking in persons is punishable by up to 10 years' imprisonment. The Federal Criminal Office and state police actively investigated cases of trafficking. The Federal Ministry for Families, the Elderly, Women, and Youth heads an interagency working group to coordinate the efforts of state and federal agencies to combat trafficking and to aid victims of trafficking. The Federal Criminal Office offers a 2-week seminar twice a year to train police officers from all over Germany in the handling of trafficking cases. The federal and state Governments worked actively with nongovernmental agencies and local women's shelters in combating human trafficking. The Government publishes a brochure that provides information on residency and work requirements, counseling centers for women, health care, warnings about trafficking, and information for sex-industry workers that is printed in 13 languages and distributed by NGO's and German Consulates abroad.

The Federal Government continued a multiyear "Action Plan to Combat Violence Against Women," introduced in December 1999. This effort includes the creation of a number of combined federal and state working groups, with the participation of relevant NGO's, to address possible legislative changes, public educational campaigns, and opportunities for greater institutional cooperation. Under this program, the Government plans to spend approximately \$373,000 (DM 822,000) over 3 years to establish a "National Coordination Group Against Trafficking in Women and Violence Against Women in the Migratory Process."

The Ministry has lobbied states successfully to provide victims of trafficking who have been detained by police 4 weeks to leave the country, rather than have them face immediate deportation. The 4-week grace period allows the victims time to decide whether to cooperate with police on investigations of those suspected of trafficking. During this time, the women are housed, fed, and provided counseling. However, the interagency Working Group on Trafficking in Women and NGO's claimed that the directive allowing a 4-week grace period is not applied uniformly or correctly. According to the Working Group, victims often are deported immediately after being taken into custody. Those who cooperate, although they are very few in number, are granted a temporary stay for at least part of the proceedings and may be eligible for witness protection at the state level. In three past cases, the children of women in such witness protection programs were brought to the country to prevent possible retaliation against them due to their mother's testimony; however, protection ends once the case is concluded.

Because victims technically are illegal residents, they are not allowed to work during the period of a trial, and because they do not have a residence permit, they only qualify for financial assistance under the federal Law on Payments for Asylum seekers, which are lower than regular welfare payments. Trafficking victims who cannot afford to pay for their return tickets home may be eligible for state and federal funds for transportation and some pocket money.

The Federal Government continued its funding of six counseling centers for women from Central and Eastern Europe, and most states and many communities cofinanced institutions that help counsel and care for victims of trafficking. The Government also funds the "Coordination Network" (Koordinierungskreis der Fachberatungsstellen/KOK), a network of over 30 NGO's that participate in processing the caseload of victims of human trafficking. There are over 30 organizations that fall under the network of the KOK. These organizations provide food, shelter, and counseling to victims.